



General Assembly

January Session, 2003

Raised Bill No. 987

LCO No. 3633

Referred to Committee on Banks

Introduced by:
(BA)

AN ACT CONCERNING MORTGAGE LOAN ORIGINATORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-485 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 As used in this section and sections 36a-486 to 36a-498, inclusive,
4 unless the context otherwise requires:

5 (1) "Advance fee" means any consideration paid or given, directly or
6 indirectly, to a mortgage lender, first mortgage broker or originator
7 required to be licensed or registered pursuant to sections 36a-485 to
8 36a-498, inclusive, prior to the closing of a first mortgage loan to any
9 person, including, but not limited to, loan fees, points, broker's fees or
10 commissions, transaction fees or similar prepaid finance charges;

11 (2) "Advertise" or "advertisement" means the use of media, mail,
12 computer, telephone, personal contact or any other means to offer the
13 opportunity for a first mortgage loan;

14 (3) "First mortgage broker" means a person who, for a fee,
15 commission or other valuable consideration, directly or indirectly,

16 negotiates, solicits, arranges, places or finds a first mortgage loan that
17 is to be made by a mortgage lender, whether or not the mortgage
18 lender is required to be licensed under sections 36a-485 to 36a-498,
19 inclusive;

20 (4) "First mortgage correspondent lender" means a person engaged
21 in the business of making first mortgage loans in such person's own
22 name where the loans are not held by such person for more than
23 ninety days and are funded by another person through a warehouse
24 agreement, table funding agreement or similar agreement;

25 (5) "First mortgage lender" means a person engaged in the business
26 of making first mortgage loans: (A) In such person's own name
27 utilizing such person's own funds, or (B) by funding loans through a
28 table funding agreement;

29 (6) "First mortgage loan" means a loan or an extension of credit,
30 including, but not limited to, an extension of credit pursuant to a
31 contract or an assigned contract for the sale of goods or services, made
32 to a natural person, the proceeds of which are to be used primarily for
33 personal, family or household purposes, and which is secured by a
34 first mortgage upon any interest in one-to-four-family residential
35 owner-occupied real property located in this state which is not subject
36 to any prior mortgages and includes the renewal or refinancing of an
37 existing first mortgage loan;

38 (7) "Mortgage lender" means a first mortgage lender, a first
39 mortgage correspondent lender, or both;

40 (8) "Originator" means (A) an individual who is employed or
41 retained to negotiate, solicit, arrange or find a first mortgage loan for,
42 or with the expectation of, a fee, commission or other valuable
43 consideration, by a mortgage lender or first mortgage broker that is
44 required to be licensed under sections 36a-485 to 36a-498, inclusive, as
45 amended by this act, [for, or with the expectation of, a fee, commission
46 or other valuable consideration, to negotiate, solicit, arrange or find a

47 first mortgage loan] or (B) an individual licensed as an insurance
48 producer under chapter 701a who is employed by, or who has an
49 exclusive independent contract with, one mortgage lender to negotiate,
50 solicit, arrange or find a first mortgage loan for, or with the expectation
51 of, a fee, commission or other valuable consideration, which mortgage
52 lender is affiliated with an insurer represented by such producer,
53 whether or not such mortgage lender is required to be licensed under
54 sections 36a-485 to 36a-498, inclusive, as amended by this act, provided
55 such lender by written agreement accepts responsibility for any
56 business conducted by such originator. "Originator" does not include
57 an officer, if the licensee is a corporation; a general partner, if the
58 licensee is a partnership; a member, if the licensee is a limited liability
59 company; or a sole proprietor, if the licensee is a sole proprietorship;

60 (9) "Residential property" means improved real property used or
61 occupied, or intended to be used or occupied, for residential purposes;

62 (10) "Simulated check" means a document that imitates or resembles
63 a check but is not a negotiable instrument;

64 (11) "Table funding agreement" means an agreement wherein a
65 person agrees to fund mortgage loans to be made in another person's
66 name and to purchase such loans after they are made; and

67 (12) "Warehouse agreement" means an agreement to provide credit
68 to a person to enable the person to have funds to make mortgage loans
69 and hold such loans pending sale to other persons.

70 Sec. 2. Subsection (a) of section 36a-491 of the general statutes is
71 repealed and the following is substituted in lieu thereof (*Effective*
72 *October 1, 2003*):

73 (a) (1) Each applicant for a first mortgage lender license or a first
74 mortgage correspondent lender license shall, at the time of making
75 such application, pay to the commissioner a license fee of eight
76 hundred dollars, provided if such application is filed not earlier than

77 one year before the date such license will expire, the applicant shall
78 pay to the commissioner a license fee of four hundred dollars. Each
79 applicant for a first mortgage broker license shall, at the time of
80 making such application, pay to the commissioner a license fee of four
81 hundred dollars, provided if such application is filed not earlier than
82 one year before the date such license will expire, the applicant shall
83 pay to the commissioner a license fee of two hundred dollars. Each
84 license issued pursuant to this section shall expire at the close of
85 business on September thirtieth of the even-numbered year following
86 its issuance unless such license is renewed. Such licensee shall, on or
87 before September first of the year in which the license expires, pay to
88 the commissioner the appropriate license fee as provided in this
89 section for the succeeding two years, commencing October first,
90 together with such renewal application as the commissioner may
91 require. Any renewal application filed with the commissioner after
92 September first shall be accompanied by a one-hundred-dollar late fee.
93 Whenever an application for a license, other than a renewal
94 application, is filed under sections 36a-485 to 36a-498, inclusive, by any
95 person who was a licensee under said sections and whose license
96 expired less than sixty days prior to the date such application was
97 filed, such application shall be accompanied by a one-hundred-dollar
98 processing fee in addition to the application fee.

99 (2) A licensee or a nonlicensee mortgage lender under subparagraph
100 (B) of subdivision (8) of section 36a-485, as amended by this act, filing
101 an application for registration of an originator shall, at the time of
102 making such application, pay to the commissioner a registration fee of
103 one hundred dollars for such originator, provided if such application is
104 filed not earlier than one year before the date the license of the
105 applicant will expire, the applicant shall pay to the commissioner a
106 registration fee of fifty dollars for such originator. Each registration
107 filed by a licensee shall expire at such time as the licensee's license
108 expires unless such registration is renewed. Such licensee, or
109 nonlicensee mortgage lender under subparagraph (B) of subdivision
110 (8) of section 36a-485, as amended by this act, shall file an application

111 for renewal of the registration and pay to the commissioner the
112 appropriate registration fee as provided in this subsection for the
113 succeeding two years, commencing October first.

114 Sec. 3. Section 36a-510 of the general statutes is repealed and the
115 following is substituted in lieu thereof (*Effective October 1, 2003*):

116 As used in sections 36a-510 to 36a-524, inclusive, as amended by this
117 act, unless the context otherwise requires:

118 (1) "Advance fee" means any consideration paid or given, directly or
119 indirectly, to a mortgage lender, secondary mortgage broker or
120 originator required to be licensed or registered pursuant to sections
121 36a-510 to 36a-524, inclusive, as amended by this act, prior to the
122 closing of a secondary mortgage loan to any person, including, but not
123 limited to, loan fees, points, broker's fees or commissions, transaction
124 fees, or similar prepaid finance charges;

125 (2) "Advertise" or "advertisement" means the use of media, mail,
126 computer, telephone, personal contact or any other means to offer the
127 opportunity for a secondary mortgage loan;

128 (3) "Licensee" means any person who is required to be licensed
129 pursuant to section 36a-511;

130 (4) "Mortgage lender" means a secondary mortgage lender or a
131 secondary mortgage correspondent lender, or both;

132 (5) "Originator" means (A) an individual who is employed or
133 retained to negotiate, solicit, arrange or find a first mortgage loan for,
134 or with the expectation of, a fee, commission or other valuable
135 consideration, by a mortgage lender or secondary mortgage broker
136 that is required to be licensed under sections 36a-510 to 36a-524,
137 inclusive, as amended by this act, [for, or with the expectation of, a fee,
138 commission or other valuable consideration, to negotiate, solicit,
139 arrange or find a secondary mortgage loan] or (B) an individual
140 licensed as an insurance producer under chapter 701a who is

141 employed by, or who has an exclusive independent contract with, one
142 mortgage lender to negotiate, solicit, arrange or find a first mortgage
143 loan for, or with the expectation of, a fee, commission or other valuable
144 consideration, which mortgage lender is affiliated with an insurer
145 represented by such producer, whether or not such mortgage lender is
146 required to be licensed under sections 36a-510 to 36a-524, inclusive, as
147 amended by this act, provided such lender by written agreement
148 accepts responsibility for any business conducted by such originator.
149 "Originator" does not include an officer, if the licensee is a corporation;
150 a general partner, if the licensee is a partnership; a member, if the
151 licensee is a limited liability company; or a sole proprietor, if the
152 licensee is a sole proprietorship;

153 (6) "Principal amount of the loan" means the gross loan amount the
154 borrower is obligated to repay including any prepaid finance charge
155 and other charges which are financed. The provisions of this
156 subdivision apply to all loans negotiated before, on and after June 14,
157 1993;

158 (7) "Secondary mortgage broker" means a person who, for a fee,
159 commission or other valuable consideration, directly or indirectly,
160 negotiates, solicits, arranges, places or finds a secondary mortgage loan
161 that is to be made by a mortgage lender, whether or not the mortgage
162 lender is required to be licensed under sections 36a-510 to 36a-524,
163 inclusive;

164 (8) "Secondary mortgage correspondent lender" means a person
165 engaged in the business of making secondary mortgage loans in such
166 person's own name where the loans are not held by such person for
167 more than ninety days and are funded by another person through a
168 warehouse agreement, table funding agreement or similar agreement;

169 (9) "Secondary mortgage lender" means a person engaged in the
170 business of making secondary mortgage loans: (A) In such person's
171 own name utilizing such person's own funds, or (B) by funding loans
172 through a table funding agreement;

173 (10) "Secondary mortgage loan" means (A) a loan or an extension of
174 credit, including, but not limited to, an extension of credit pursuant to
175 a contract or an assigned contract for the sale of goods or services,
176 made to a person, the proceeds of which are to be used primarily for
177 personal, family or household purposes, and which is secured in
178 whole or in part by a mortgage upon any interest in one-to-four-family
179 residential owner-occupied real property located in this state,
180 provided such real property is subject to one or more prior mortgages,
181 and (B) the renewal or refinancing of any existing loan or extension of
182 credit described in subparagraph (A) of this subdivision;

183 (11) "Simulated check" means a document that imitates or resembles
184 a check but is not a negotiable instrument;

185 (12) "Table funding agreement" has the meaning given to that term
186 in subdivision (11) of section 36a-485, as amended by this act; and

187 (13) "Warehouse agreement" has the meaning given to that term in
188 subdivision (12) of section 36a-485, as amended by this act.

189 Sec. 4. Subsection (b) of section 36a-514 of the general statutes is
190 repealed and the following is substituted in lieu thereof (*Effective*
191 *October 1, 2003*):

192 (b) A licensee or a nonlicensee mortgage lender under
193 subparagraph (B) of subdivision (5) of section 36a-510, as amended by
194 this act, filing an application for registration of an originator shall, at
195 the time of making such application pay to the commissioner a
196 registration fee of one hundred dollars for each originator, provided if
197 such application is filed not earlier than one year before the date the
198 license of the applicant will expire, the applicant shall pay to the
199 commissioner a registration fee of fifty dollars for each originator. Each
200 registration filed by a licensee shall expire at such time as the licensee's
201 license expires unless such registration is renewed. Such licensee or
202 nonlicensee mortgage lender under subparagraph (B) of subdivision
203 (5) of section 36a-510, as amended by this act, shall file an application

204 for renewal of the registration and pay to the commissioner the
205 appropriate registration fee as provided in this subsection for the
206 succeeding two years, commencing October first.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>

Statement of Purpose:

To classify licensed insurance producers, who contract exclusively with a mortgage lender affiliated with an insurer that the producer represents to arrange first or secondary mortgages, as "originators" where such lender agrees in writing to take responsibility for business conducted by such originator, and to permit any such mortgage lender that is not a licensee to file an application for registration for such an originator.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]